IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 1250 OF 1998.

Sou.Shantabai Dagadulal Bothara. ... Petitioner.
Versus.
State of Maharashtra & others. ... Respondents.

Shri P.B.Shah for the Petitioner.

Shri A.R.Patil, A.G.P. for the Respondent-State.

CORAM : ABHAY S.OKA, J.

DATED : 19th April, 2007.

ORAL JUDGMENT.:

1. Heard the learned Advocates appearing for the parties.

2. This Revision Application has been preferred under section 18 of the Land Acquisition Act, 1894 (as applicable in the State of Maharashtra) for challenging the order dated 5th October 1998 passed by the Special Land Acquisition Officer by which an application for reference made by the Petitioner under section 18 of the said Act of 1894 has been rejected.

3. The learned Advocate for the Petitioner has taken me through the record of the Revision Application and has submitted that considering the period required for obtaining the certified copy of the Award, the reference Application was filed within the stipulated

period of limitation. He submitted that the Special Land Acquisition Officer has committed an error by rejecting the application for reference.

4. It appears that the notice under section 12(2) of the said Act of 1894 was issued on 7th January 1998. The award was made on 15th September 1997. It is not the case of the Respondents that the Petitioner was present at the time of passing of the award. It is necessary to refer to the averments made in the Application for reference. In the first paragraph itself the Petitioner has stated that the notice under section 12(2) of the said Act of 1894 was received by her in March 1998. The case made out by the Petitioner is that an application was made by her for obtaining the certified copy of the award on 1st April 1998 and the certified copy was delivered on 10th August 1998. The reference application was filed on 10th September 1998.

5. Admittedly the Petitioner received the notice under section 12(2) in March 1998. Assuming the date of service of notice as 31st March 1998, the application for reference ought to have been filed within the period of six weeks from the date of receipt of the notice. Therefore, the application for reference was hopelessly barred by limitation. It is well settled position of law that the time required for obtaining certified copy

of the award cannot be excluded while computing the period of limitation. It is equally well settled that there is no power vesting in the Special Land Acquisition Officer to condone the delay in making an application under section 18 of the said Act of 1894.

6. In this view of the matter, there is no merit in the Revision Application. Rule is discharged.

Judge.